The Associated General Contractors of Connecticut, Inc.
Division of Connecticut Construction Industries Association

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CCIA

Senate Bill 454, An Act Increasing the Transparency of General Bids for State Contracts
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Public Hearing, Committee on Government Administration and Elections

Connecticut Construction Industries Association, Inc. (CCIA) represents the commercial construction industry in the state and seeks to advance and promote a better quality of life for all citizens in the state. Formed over 40 years ago, CCIA is an organization of associations, where all sectors of the commercial construction industry work together to advance and promote their shared interests. CCIA is comprised of more than 300 members, including contractors, subcontractors, suppliers and affiliated organizations representing many sectors of the construction industry. CCIA members have a long history of providing quality work for the public benefit.

AGC of Connecticut is the building division of CCIA, representing 150 commercial, industrial, and institutional construction contractors, subcontractors, material suppliers and professionals serving the Connecticut construction industry. AGC is a chapter of AGC of America.

Senate Bill 454, An Act Increasing the Transparency of General Bids for State Contracts would: (1) extend the bid listing requirement on construction projects administered by the Department of Administrative Services (DAS) to all classes of work that are required to be pre-qualified; (2) reduce the threshold by which subcontractors would need to be prequalified to $25,000; (3) require construction managers at risk to list each subcontractor on a project to within five days of submitting a guaranteed maximum price; (4) apply the terms of the state subcontract to construction managers at risk; and (5) require contracting agencies and agents of contracting agencies to maintain wage and hour records of those performing the work on the project and further requires them to make sure employers on the project comply with the state's wage and hour laws.

AGC of Connecticut opposes S.B. 454 for the following reasons:

Under lines 44 through 46, the DAS would be required, in their specifications for each project, to break out each class of work to be bid on separately. We expect this will pose a real problem for the agency. The DAS list of prequalification classifications is not as extensive or detailed as the specifications used by a designer for a project, which is based on the industry standard for classifications of work, The Construction Specification Institute's (CSI) Masterformat. Currently DAS's classification system is not totally compatible with CSI's Masterformat. There are hundreds of CSI specifications and only about 45 DAS classifications, some of which do not correspond with CSI's system. We anticipate that there will be real issues (and real confusion) when there is not a corresponding DAS prequalification for the listed CSI Masterformat specification.

The bill effectively lowers the DAS prequalification requirement from $500,000 to $25,000; this is probably the biggest and most profound impact of this legislation. When the $500,000 threshold was set, it was with the understanding that state construction work be performed only by contractors that are bondable, and $500,000 was deemed to be a threshold by which that standard would be maintained. Probably a large majority of contractors that pursue subcontract work under $500,000 are either not

bondable, or choose to be bonded, for many different reasons. Therefore, the implementation of the $25,000 prequalification limit could seriously impact the availability of lower-tier contractors that were previously able to bid and work on a project.

On line 57, the bill requires that all subcontract work be performed by the subcontractor's own forces. A typical scope of work for a bid package includes multiple CSI sections. However, the bidder may not necessarily self perform all of the specified work. It is common for mechanical, electrical, and plumbing (MEP) trades to have multiple subcontractors. We have been told by our construction manager member firms that this provision will add cost to the construction manager for more management time of more subcontractors, which will, in turn, be passed along to the owners.

We would also point out an inconsistency in the bill between requiring all subcontractors to perform all their work with their own forces and the provision on line 112 requiring that all general contractors and (the now added) subcontractors "perform a stated, minimum percentage of work with his own forces."

On lines 66 through 71, the bill would require all subcontractors, including lower tier subcontractors, to list their subcontractors and their prices in the bids they submit to their subcontractors. We view this requirement as impractical. Frequently, bidders, especially MEP bidders, do not receive final vendor numbers until 10 to 15 minutes before bid time. This leaves the bidder very little time to validate the number and confirm the scope of work prior to his or her bid being submitted. The proposed change in the legislation is a wholesale change in the way business has been performed for years not only in Connecticut but throughout the country. Requiring the major subcontractors in this scenario to list their bids is one thing; most major subs have been able to manage last minute submittals as a way of doing business. But require all lower tier subs to list their prices and subs, and you potentially multiply that inherent confusion on bid day exponentially all the way down the line. A likely unintended consequence of this requirement will be more claims from subcontractors for missed scope as they would no longer be afforded a reasonable amount of time to perform their due diligence.

Section 7 is confusing. We understand the attempt in the bill to add "any agent of a contracting agency" to the wage and hour responsibilities that are assumed in current law by the contracting agency. However, there seem to be several misplaced references of "any agent of a contracting agency" throughout this section, specifically on line 338, where it refers to "the employer or any agent of a contracting agency," and on lines 353 and 356, where it refers to "a general contractor or any agent of a contracting agency." In those situations, the wage and hour responsibilities of the owner, for whom an agent of a contracting agency is acting, are very different from the wage and hour responsibilities of employers or general contractors. Connecting the wage and hour responsibilities of an agent of the contracting with those of employers and general contractors does not seem to make sense.

On line 277 and 278, the bill would effectively require all construction manager at risk firms working on state projects to use the standard state subcontract. Since the state started using construction manager at risk as an accepted construction delivery system, one of the primary benefits of the system to owners is the ability of construction managers to manage their own risk by using their own subcontract forms and general conditions. Our construction manager member firms maintain that if they are required to use the state's subcontract form, as defined on lines 219 to 283, their risks will increase, and increased risk will result in higher bid prices, which may negate any advantage to the construction manager at risk form of delivery to the owner.

Thank you for your consideration and for the opportunity to present our views. Please contact John Butts, AGC/CT Executive Director at 860-529-6855, or at jbutts@ctconstruction.org if you have any questions or if you need additional information.